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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 1st *April,* 1971/*Chaitra* 11, 1893 (*Saka*)

The following President's Act, enacted on the 31st March, 1971, is hereby published for general information:—

THE WEST BENGAL DUTY ON INTER-STATE RIVER VALLEY AUTHORITY ELECTRICITY BILL, 1971

No. 5 OF 1971

Enacted by the President in the Twenty-second Year of the Republic of India.

An Act to provide for the levy of duty on the consumption, in West Bengal, of energy generated, distributed, sold or consumed by an inter-State river valley authority and for matters connected therewith or incidental thereto.

In exercise of the powers conferred by section 3 of the West Bengal
17 of 1970. State Legislature (Delegation of Powers) Act, 1970, the President is pleased to enact as follows:—

Short title, extent and commencement

1. (*1*) This Act may be called the West Bengal Duty on Inter-State River Valley Authority Electricity Act, 1971.

(*2*) It extends to the whole of the State of West Bengal.

(*3*) It shall be deemed to have come into force on the 1st day of February, 1958.

2. In this Act, unless the context otherwise requires,—

(*a*) "consumer" means any person, other than a distributing licensee, who is supplied with energy by a licensee;

(*b*) "energy" means electrical energy generated, distributed, sold or consumed by an inter-State river valley authority;

(*c*) "inter-State river valley authority" means an authority established by or under any law in force immediately before the commencement of the Constitution of India or any law made by Parliament for regulating or developing any inter-State river valley or river;

(*d*) "licensee" means any person licensed under Part II of the Indian Electricity Act, 1910, to supply energy and includes any person who has obtained the sanction of the State Government under section 28 of that Act and also includes the West Bengal State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948; 9 of 1910. 54 of 1948.

(*e*) "prescribed" means prescribed by rules made under this Act;

(*f*) "Schedule" means a Schedule to this Act.

Duty on units of energy consumed.

3. There shall be charged, levied and paid to the State Government a duty (hereinafter referred to as "electricity duty"), on the units of energy consumed, at the rates in force from time to time as specified in the First Schedule:

Provided that electricity duty shall not be leviable on the units of energy consumed—

(*a*) by any Government, except to the extent specified in the Second Schedule;

(*b*) by, or in respect of, any—

(*i*) railway administration as defined in the Indian Railways Act, 1890; 9 of 1890.

(*ii*) inter-State river valley authority;

(*iii*) local authority;

(*iv*) institution or class of persons specified in the Second Schedule,

except to the extent specified in the Second Schedule;

(*c*) in any—

(*i*) place of public worship, public burial or burning ground or other place for the disposal of the dead;

(*ii*) premises declared by the State Government to be used exclusively for the purposes of public charity;

(*iii*) vessel, whether sea-going or inland.

Payment of electricity duty.

. In the case of energy which is—

(*a*) received by a licensee and supplied by him to consumers, the licensee shall collect and pay to the State Government, at the prescribed time and in the prescribed manner, the electricity duty payable under section 3 on the units of energy supplied by him to consumers

and the duty so payable shall be a first charge on the amount recoverable by such licensee for the energy supplied by him to consumers and such amount shall be deemed to be a debt due by him to the State Government:

Provided that such licensee shall not be liable to pay the duty in respect of any energy supplied by him for which he has been unable to recover any amount due to him from the consumer;

(*b*) received by any other person (not being an employee of an inter-State river valley authority or any other person in the occupation of any premises owned or controlled by such authority) who, having obtained such energy directly from an inter-State river valley authority, either consumes such energy or distributes such energy, whether wholly or partly, to any other person, the first mentioned person shall pay to the State Government, at the prescribed time and in the prescribed manner, the electricity duty payable under section 3 on the units of energy received by him;

(*c*) supplied by any inter-State river valley authority, to its employees, or to any other person, in the occupation of any premises owned or controlled by it, such authority shall pay to the State Government, at the prescribed time and in the prescribed manner, the electricity duty payable under section 3 on the units of energy so supplied by it.

Right to recover electricity duty in respect of energy supplied to certain persons.

5. (*1*) Where any energy—

(*a*) received by a person (other than a licensee) is supplied by such person to any of his employees or to any other person, or

(*b*) is consumed by an inter-State river valley authority by supplying it to any premises owned or controlled by it, which is in the occupation—

(*i*) of any of its employees for residential purposes, or

(*ii*) of any other person, or

(*iii*) of both,

such person or authority shall be entitled to recover an amount, equal to the amount of the electricity duty payable under section 3, from the employee or other person to whom such energy was supplied:

Provided that nothing shall be recoverable under this sub-section from an employee referred to in clause (*a*) or clause (*b*), if the employee has not used in any one month more units of energy than the units exempted, in the case of a consumer, under clause (*6*) of the Second Schedule.

(*2*) Where an amount equal to the amount of the electricity duty payable under section 3 in respect of any energy used by an employee is not

recoverable from him by reason of the proviso to sub-section (*1*), the person (other than a licensee) or an inter-State river valley authority, as the case may be, supplying such energy, shall, notwithstanding anything contained in clause (*b*) or clause (*c*) of section 4, be entitled to deduct, the amount not so recoverable, from the amount of the electricity duty payable by him or it under section 3.

(*3*) The person referred to in clause (*b*) of section 4 or the inter-State river valley authority referred to in clause (*c*) of section 4 shall be entitled to remission of duty payable by him or by it in respect of the amount which he or it has been unable to recover under sub-section (*1*).

(*4*) Every authority or person referred to in this section shall, for the purposes of determining the amount liable to be deducted under sub-section (*2*) or the amount of remission of duty under sub-section (*3*) maintain such records and registers as may be prescribed.

Power of licensee to recover electricity duty from consumers.

6. (*1*) Where any consumer fails or neglects to pay at the prescribed time and in the prescribed manner the amount of electricity duty due from him, the licensee may, without prejudice to the rights of the State Government to receive the amount under section 9, and after giving not less than seven clear days' notice in writing to such person, cut off the supply of energy to such person, and he may, for that purpose, exercise the power conferred on a licensee by sub-section (*1*) of section 24 of the Indian Electricity Act, 1910, for recovery of any charge or sum due in respect of energy supplied by him. 9 of 1910.

(*2*) The licensee shall be entitled, for his cost of collection of the duty, to a rebate of such percentage as may be determined by the State Government on the amount of the duty collected and paid by him under section 4.

Obligation of licencees to keep books of account and submit returns.

7. A licensee, who is liable to pay electricity duty under section 4 shall, unless he is exempt from payment of such duty under the proviso to section 3, keep books of account in the prescribed form and submit to the State Government or to the prescribed officer returns in the prescribed form at the prescribed time, showing the units of energy supplied, received or consumed by him, as the case may be, and the amount of the duty payable thereon and recovered or paid by him under section 4.

Inspecting officers

8. (*1*) The State Government may, by notification in the Official Gazette, appoint inspecting officers to inspect books of account required by section 7 to be kept and such officers shall perform such duties and exercise such powers as may be prescribed for the purpose of carrying into effect the provisions of this Act and the rules made thereunder.

(*2*) Every officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Recoveries

9. Any sum due on account of electricity duty if not paid at the prescribed time and in the prescribed manner, shall be recoverable as a public demand—

(*a*) in the case of energy supplied by a licensee, at the discretion of the State Government, either from the consumer, or, subject to the proviso to clause (*a*) of section 4, from the licensee;

(*b*) in the case of other energy, from the person or inter-State river valley authority liable to pay such duty under clause (*b*) or clause (*c*) of section 4.

Penalties

10. (*1*) If a licensee required by section 7 to keep books of account or to submit returns fails to keep such books in the prescribed form, or to submit such returns in the prescribed form or at the prescribed time, such licensee shall be liable, on conviction before a Magistrate, to a fine not exceeding one thousand rupees.

(*2*) If any person intentionally obstructs an inspecting officer appointed under section 8 in the exercise of his powers and the discharge of his functions under this Act and the rules made thereunder, he shall be liable, on conviction before a Magistrate, to a fine not exceeding one thousand rupees.

Power to make rules.

11. (*1*) The State Government may, subject to the provisions of sub-section (*3*), make rules to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

(*a*) the time and manner of payment of electricity duty under section 4 or section 5;

(*b*) the form of the books of account to be kept, the times at which, the form in which and the officer to whom, returns required by section 7 shall be submitted;

(*c*) the duties and powers of an inspecting officer; and

(*d*) any other matter which is required to be, or may be, prescribed.

(*3*) No rules shall be made under this section to affect the rates and other incidents of the electricity duty payable under section 3.

(*4*) In making a rule under this section the State Government may provide that a breach thereof shall be punishable with a fine not exceeding one thousand rupees.

Collection of arrears in instalments.

12. Any duty which is payable under section 3 for the consumption of energy at any time during the period commencing on the 1st day of February, 1958, and ending on the 31st day of March, 1970, shall be paid to the State Government in six equal annual instalments.

Validation of levy or recovery of electricity duty under Bengal Act X of 1935.

13. If any electricity duty leviable or sum recoverable under the provisions of this Act, has, prior to the publication of this Act, been levied or recovered under the provisions of the Bengal Electricity Duty Act, 1935, such duty or sum shall be deemed to have been validly levied or recovered as if such levy or recovery were made under the provisions of this Act.

THE FIRST SCHEDULE

(*See* section 3)

RATES OF ELECTRICITY DUTY

PART A

For lights and fans

SECTION I

RATES IN FORCE FROM THE 1ST FEBRUARY, 1958 TO THE 28TH MARCH, 1966

(1) In respect of every premises not falling under article (2),—

(a) when the net charge of the licensee for the supply of energy for the purposes of lights, or fans, or both, does not exceed nineteen paise for each unit of energy consumed, the rates of electricity duty shall be as follows, namely:—

in the case of a consumer whose consumption of energy during the month to which the calculation of electricity duty relates,

(*i*) does not exceed fifteen units—*Nil*,

(*ii*) exceeds fifteen units but does not exceed fifty units—three paise for each unit of energy consumed,

(*iii*) exceeds fifty units—six paise for each unit of energy consumed,

(b) in other cases—three paise for each unit of energy consumed.

(2) In respect of every premises where the supply of energy by a licensee is unmetered, for—

	Paise per mensem
Every lamp of less than 30 watts	.. 12
Every lamp of 30 watts or more but less than 40 watts	.. 19
Every lamp of 40 watts or more but less than 60 watts	.. 25
Every lamp of 60 watts or more but not exceeding 100 watts	.. 37
And for every additional 15 watts or fraction thereof in excess of 100 watts in any lamp	.. 6

SECTION II

RATES IN FORCE FROM THE 29TH MARCH, 1966 TO THE 15TH NOVEMBER, 1967

(*1*) In respect of every premises not falling under article (*2*),—

(*a*) when the net charge of the licensee for the supply of energy for the purposes of lights, or fans, or both, is less than twenty-five paise for each unit of energy consumed, the rates of electricity duty shall be as follows, namely:—

in the case of a consumer whose consumption of energy during the month to which the calculation of duty relates,

(*i*) does not exceed fifteen units—*Nil*,

(*ii*) exceeds fifteen units but does not exceed fifty units—three paise for each unit of energy consumed,

(*iii*) exceeds fifty units—six paise for each unit of energy consumed,

(*b*) in other cases—three paise for each unit of energy consumed.

(*2*) In respect of every premises where the supply of energy by a licensee is unmetered, for—

	Paise per mensem
Every lamp of less than 30 watts	12
Every lamp of 30 watts or more but less than 40 watts	19
Every lamp of 40 watts or more but less than 60 watts	25
Every lamp of 60 watts or more but not exceeding 100 watts	37
And for every additional 15 watts or fraction thereof in excess of 100 watts, in any lamp	6

SECTION III

RATES IN FORCE FROM THE 16TH NOVEMBER, 1967

(*1*) In respect of every premises not falling under article (*2*),—

(*a*) when the net charge of the licensee for the supply of energy for the purposes of lights, or fans, or both, is less than twenty-five paise for each unit of energy consumed, the rates of electricity duty shall be as follows, namely:—

in the case of a consumer whose consumption of energy during the month to which the calculation of duty relates,—

(*i*) does not exceed twenty-five units—*Nil*,

(*ii*) exceeds twenty-five units but does not exceed sixty units—three paise for each unit of energy consumed,

(*iii*) exceeds sixty units—nine paise for each unit of energy consumed,

(*b*) in other cases—three paise for each unit of energy consumed.

(*2*) In respect of every premises where the supply of energy by a licensee is unmetered, for—

	Paise per mensem
Every lamp of less than 30 watts	12
Every lamp of 30 watts or more but less than 40 watts	19
Every lamp of 40 watts or more but less than 60 watts	25
Every lamp of 60 watts or more but not exceeding 100 watts	37
And for every additional 15 watts or fraction thereof in excess of 100 watts, in any lamp	6

Explanation.—In this Part, the expression "net charge of the licensee" means the net charge which remains after deducting, from the charge made by the licensee for the supply of energy to a consumer, any rebate which is allowed by such licensee for prompt payment by the consumer.

PART B

For any other purpose

SECTION I

RATES IN FORCE FROM THE 1ST FEBRUARY, 1958 TO THE 30TH APRIL, 1963

(*a*) For every three units of energy or fraction thereof consumed—

(*i*) by any undertaking which is a cottage industry or a small-scale industry and which is not a factory under the Factories Act, 1948, or 63 of 1948.

(*ii*) by any industrial undertaking for electrolytic process or electric furnace subject to the condition that the inspecting officer appointed under sub-section (*1*) of section 8 is satisfied that the cost of the energy consumed is not less than 20 per cent. of the total cost of manufacture incurred by such industrial undertaking;

where separate meters or sub-meters are installed for indicating such consumption separately—

one paisa.

(*b*) For every unit of energy or fraction thereof in cases not falling under clause (*a*)—one paisa.

SECTION II

RATES IN FORCE FROM THE 1ST MAY, 1963 TO THE 15TH NOVEMBER, 1967

(*a*) Except in cases falling under article (*b*) or article (*c*), where energy is consumed in any premises—

(*i*) otherwise than in connection with any industrial or manufacturing process, for every unit of energy or fraction thereof so consumed—one paisa,

(*ii*) in connection with any industrial or manufacturing process, for every two units of energy or fraction thereof so consumed— three paise.

(*b*) For every three units of energy or fraction thereof consumed for purposes of,—

(*i*) a cottage industry or a small-scale industry, by any undertaking not being a factory as defined in the Factories Act, 1948, or 63 of 1948.

(*ii*) electrolysis or heating in electric furnaces, by any industrial undertaking;

where separate meters or sub-meters are installed for indicating the quantity of energy so consumed—
one paisa.

(*c*) For energy consumed in any premises for lights, or fans, or both, and for any other purpose in connection with any industrial or manufacturing process carried on therein, in cases where the quantity of energy consumed for lights or fans is not separately indicated by the installation of separate meters or sub-meters or otherwise,—

the respective rates specified under article (*a*) or (*b*), and, except in the case of premises occupied by a cottage industry or small-scale industry referred to in clause (*i*) of article (*b*), a surcharge of ten per cent. of the duty payable for the total quantity of energy consumed in accordance with such rates.

SECTION III

RATES IN FORCE FROM THE 16TH NOVEMBER, 1967.

(*a*) Except in cases falling under article (*b*) or article (*c*), where energy is consumed in any premises,—

(*i*) otherwise than in connection with any industrial or manufacturing process, for every unit of energy or fraction thereof so consumed — three paise,

(*ii*) in connection with any industrial or manufacturing process, for every two units of energy or fraction thereof so consumed — three paise.

(*b*) For every three units of energy or fraction thereof consumed for purposes of—

(*i*) a cottage industry or a small-scale industry, by any undertaking not being a factory as defined in the Factories Act, 1948, or 63 of 1948.

(*ii*) electrolysis or heating in electric furnaces, by any industrial undertaking;

where separate meters or sub-meters are installed for indicating the quantity of energy so consumed—
one paisa.

(*c*) For energy consumed in any premises for lights, or fans, or both, and for any other purpose in connection with any industrial or manufacturing process carried on therein, in cases where the quantity of energy consumed for lights or fans is not separately indicated by the installation of separate meters or sub-meters or otherwise,—

the respective rates specified under article (*a*) or (*b*), and, except in the case of premises occupied by a cottage industry or small-scale industry referred to in clause (*i*) of article (*b*), a surcharge of ten per cent. of the duty payable for the total quantity of energy consumed in accordance with such rates.

Explanation.—(*a*) The special rate of duty referred to in clause (*ii*) of article (*b*) in Section II or Section III of this Part shall not be admissible unless—

(*i*) the cost of energy consumed for purposes of electrolysis or heating in electric furnaces is twenty per cent. or more of the total cost of manufacture or heating in electric furnaces, and

(*ii*) separate books of account are maintained showing separately the details of the cost of energy consumed for purposes of electrolysis or heating in electric furnaces and the total cost of manufacture by electrolysis or heating in electric furnaces.

(*b*) An industrial undertaking claiming the benefits of the special rate of duty referred to in clause (*ii*) of article (*b*) in Section II or Section III of this Part shall make an application in writing to an officer specially appointed in this behalf by the State Government by notification in the Official Gazette and thereupon such officer shall, after giving the applicant an opportunity of being heard and after making such enquiry (if any) as he may think fit, make an order—

(*i*) if he is satisfied that the requirements of this Act and the rules made thereunder have been complied with, allowing the application, or

(*ii*) if he is not so satisfied, rejecting the application, and such order shall, subject to the provisions of clause (*c*), be final.

(*c*) The State Government may, on application or of its own motion, revise any order made under clause (*b*).

THE SECOND SCHEDULE

(*See* proviso to section 3)

Exemptions

(1) Any Government, save in respect of premises used for residential purposes;

(2) a railway administration, save in respect of premises used for residential purposes;

(3) an inter-State river valley authority, save in respect of premises used for residential purposes;

(4) a local authority, save in respect of premises used for residential purposes;

(5) a hospital or dispensary which is not maintained for private gain;

(6) any consumer using in any one month not more than—

(*a*) fifteen units of energy, during the period prior to the 16th November, 1967, or

(*b*) twenty-five units of energy, during the period commencing with the 16th November, 1967;

(7) any consumer, being a landlord, or other person who supplies energy to one-roomed or two-roomed shops or tenements in any one building, in respect of the energy supplied to any such shop or tenement in which have been used in any one month not more than—

(*a*) fifteen units of energy, during the period prior to the 16th November, 1967, or

(*b*) twenty-five units of energy, during the period commencing with the 16th November, 1967.

Explanation.—(1) For the purposes of exemption (6) in the premises referred to in article (2) of the First Schedule every 10 watts shall be deemed to consume one and a half units in a month.

(2) For the purposes of exemption (7), whether more than fifteen units or, as the case may be, twenty-five units, of energy have been used in any one month in any shop or tenement for which there is no meter or sub-meter shall be determined by dividing the total number of units supplied during that month to such shops or tenements in the building by the number of such shops or tenements therein.

V. V. GIRI,
President.

N. D. P. NAMBOODIRIPAD,
Jt. Secy. to the Govt. of India.

Reasons for the enactment

Government of West Bengal have been levying and collecting duty on the consumption of electricity generated by the Damodar Valley Corporation, which is an inter-State river valley authority, in accordance with the rules framed under the Bengal Electricity Duty Act, 1935. Under article 288(2) of the Constitution, a State law imposing tax on electricity generated, consumed, distributed or sold by an inter-State river valley authority requires previous assent of the President which was not taken by the State Government. In order to rectify this defect, enable the State Government to levy and collect the duty on the consumption of electricity generated by an inter-State river valley authority and validate the collections made in the past, the present measure is being enacted as a President's Act.

2. In view of the urgency of the matter, it does not appear practicable to consult the Consultative Committee on West Bengal Legislation. The measure is accordingly being enacted without reference to the Consultative Committee.

M. R. YARDI,
Secy. to the Govt. of India,
Ministry of Finance
(Department of Expenditure).

ERRATA

In the West Bengal Slum Areas (Improvement and Clearance) Act, 1971 (2 of 1971) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated January 25, 1971,—

Page 8—In the long title, line 2, *for* "West Bengol and for the", *read* "West Bengal and for".

Page 10,—

(i) *For* marginal heading to section 6, *read* "Power to require the carrying out of certain measures.";

(ii) *For* marginal heading to section 7, *read* "Power to require service privy or urinal to be connected with sewer mains."

Page 15—In section 18, sub-section (2), against line 3, in the margin, *for* "45 of 1960" *read* "45 of 1860.".

In the West Bengal Land Reforms (Amendment) Act, 1971 (3 of 1971) as published in the Gazette of India, Extraordinary, Part II, Section I, dated February 8, 1971,—

Page 10,—

(i) In the title, *for* "AMENDMENT ACT 1971", *read* "(AMENDMENT) ACT, 1971".

(ii) Against line 6 from bottom, *for* "1970.", *read* "17 of 1970.".

Page 20—In the margin to section 2, *for* "West Benga", *read* "West Bengal".

Page 21—Section 9, *for* line 3, *read* "of section 8 of the West Bengal Land Reforms (Amendment) Act 1971, by".

In the West Bengal Relief Undertakings (Special Provisions) Act, 1971 (4 of 1971) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated February 11, 1971,—

Page 33,—

(i) *For* "(Ligislative Department)", *read* "(Legislative Department)";

(ii) After the title, *for* "No. 4 of 1947, *read* "No. 4 of 1971";

(iii) In the marginal heading to section 1, *for* "Short title extend", *read* "Short title, extent".

Page 34—In section 4, clause (b),—

(i) In line 7, *before* "rights,", *read* "of the";

(ii) In line 8, *before* "before" *read* "thereunder".

Page 35,—

(i) In the marginal heading to section 6, *for* "proceedings", *read* "proceedings";

(ii) In the marginal heading to section 7, *for* "imitation", *read* "limitation.".

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